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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

EL SALVADOR

1. The Committee considered the initial report of El Salvador (E/1990/5/Add.25) at its 15th, 16th and 18th meetings, held on 9 and 10 May 1996, and adopted, at its 26th meeting, held on 17 May 1996, the following concluding observations.

A. Introduction

2. The Committee thanks the State party for its initial report, despite the considerable delay in its submission. The Committee also thanks the State party for its written replies to the list of issues, but regrets that they were not submitted in time to be translated and considered more carefully by members of the Committee. The Committee also regrets that information relating to article 15 of the Covenant was missing from the report, as well as from the written replies to the list of issues, in spite of specific requests for such information. The Committee notes with satisfaction that the report of El Salvador was drafted in consultation with national non-governmental organizations.

3. The Committee points out that the lack of concrete information, both in the written report and in the written and oral replies provided by the delegation, prevented the Committee from making an effective evaluation of the actual situation as regards the exercise of economic, social and cultural rights by the Salvadoran population. The Committee notes in particular the

delegation's failure to provide specific statistics on the composition of the population and on the various economic, social and cultural indicators. However, the Committee has taken note of the delegation's undertaking that additional information will be provided in response to the various points raised by the Committee.

B. Positive aspects

4. The Committee notes with satisfaction that, within the internal legal order, international human rights instruments take precedence over national laws, and that the 1983 Constitution contains human rights provisions. The Committee also notes that amparo proceedings may be instituted for the protection of economic, social and cultural rights, although the delegation failed to clarify whether the provisions of the Covenant can be invoked directly before the courts.

5. The Committee welcomes the ratification of 14 ILO Conventions in 1994, including: Medical Examination of Young Persons (Industry) (Convention No. 77), Labour Inspection (Convention No. 81), Minimum Wage Fixing Machinery (Agriculture) (Convention No. 99), Discrimination (Employment and Occupation) (Convention No. 111), Labour Inspection (Agriculture) (Convention No. 129), Minimum Wage Fixing (Convention No. 131), Human Resources Development (Convention No. 142) and Tripartite Consultations (International Labour Standards) (Convention No. 144).

6. The Committee notes with satisfaction the creation in 1991 of the post of Procurator for the Defence of Human Rights, whose important functions, including the competence to conduct inspections and investigations, [illegible] corrective or [illegible] recommendations, are provided for in article 134 of the Constitution. The Committee also welcomes the creation of local units of the Office of the Procurator for the Defence of Human Rights to ensure wider [illegible] and greater protection for human rights, including economic, social and cultural rights.

7. The Committee welcomes the adoption of an economic and social development plan for 1994-1999, the main aims of which are to reduce poverty, improve the quality of life of the population and increase the access of landless peasants to the land. The Committee also notes that the portion of the national budget allocated to social expenditures has increased. The establishment of a Social Investment Fund to channel resources from donors to projects designed mainly to help low-income groups and the implementation of the Social Rehabilitation Plan for 78 communes are welcomed by the Committee.

8. The Committee welcomes the measures taken by the Government to reform the education system and improve access to education. The EDUCO programme introduced to promote the education of rural children and adults, literacy programmes and the comprehensive child care programme are all positive steps towards the realization for all of the right to education.

9. The Committee also welcomes the creation in 1989 of the National Secretariat for the Family, the adoption of a new Family Code, the Government's ratification of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women in August 1995, and the

establishment of the Salvador Institute for the Development of Women and the Salvador Institute for the Protection of Minors. The Committee welcomes the introduction of a telephone hotline to provide psychological help to victims of violence and to inform them about the social and medical help and legal assistance available to them.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee recognizes that the high cost of rebuilding numerous elements of infrastructure that were destroyed during the 12 years of civil war and of the implementation of the two Peace Agreements, in conjunction with the region's difficult economic circumstances, hamper the full realization of economic, social and cultural rights.

11. The full implementation of economic, social and cultural rights is further hampered by the high cost of the reintegration of returning refugees and displaced persons.

D. Principal subjects of concern

12. The Committee is deeply concerned at the high level of poverty which is affecting most of the country's inhabitants. The food and nutritional situation is a major problem, reflected among other things in a high level of infant mortality, since a very high proportion of children are suffering from malnutrition. Although the Committee recognizes that considerable efforts have been made by the authorities to improve the situation, it wishes to emphasize that the continued existence of such a level of poverty in a country experiencing constant economic growth is unjustifiable.

13. The Committee is concerned at the sluggishness with which certain clauses of the 1992 Peace Agreement are being implemented, including those concerning respect for the economic, social and cultural rights of the population, and more particularly the programme of land redistribution.

14. The Committee also notes that the scope of the authority of the Office of the Procurator for the Defence of Human Rights is unclear, particularly as regards follow-up by the administrative or judicial authorities to complaints filed by his Office concerning violations of economic, social and cultural rights brought to his attention by individuals.

15. The Committee notes with concern that discrimination against women, both at work and in the home, remains a major problem within Salvadoran society, and while noting that efforts have been made to change the legislation, it emphasizes that the law still contains discriminatory provisions, particularly in the Civil and Penal Codes.

16. The Committee regrets the total lack of specific information provided on articles 6 to 8 of the Covenant, both in the written report and in the debate. The Committee expresses its concern over the adverse consequences for economic, social and cultural rights of the way in which economic adjustment, austerity and privatization programmes have been implemented, especially in the short term. The Committee notes that working conditions in the duty-free zones have deteriorated and that difficulties have resulted from the

inadequacy of resources available to enable the factory inspectorates to enforce legislation on the minimum wage, equal remuneration for men and women, industrial safety and hygiene and wrongful dismissal.

17. The Committee regrets that article 291 of the Penal Code still remains in force, despite the fact that is has been deemed contrary to Convention No. 105 of the International Labour Organization by its Committee of Experts.

18. Although the Committee takes note of the increase in the minimum wage, it is concerned that the minimum wage remains below the cost of subsistence, as acknowledged by the delegation of El Salvador; the minimum wage amounts to 1,050 colones in urban areas and 900 colones in rural areas, while the meeting of basic subsistence costs amounts to 4,500 colones.

19. The Committee considers that the legal restrictions on trade-union freedom and the right to strike are far too extensive. In the view of the Committee, the prohibition on aliens occupying positions of responsibility within a trade union is contrary to the Covenant. The Committee is concerned at the numerous reports it has received of violations with virtually total impunity in enterprises located in duty-free zones of the rights contained in articles 7 and 8 of the Covenant.

20. The Committee expresses its concern at the extent of the problem of violence against women, both within and outside the family, in El Salvadoran society and its implications for the physical and mental health of women and their children.

21. The Committee notes with concern the apparently chronic housing shortage and the fact that a large proportion of the population lives in precarious conditions and in housing that does not correspond to the content of the right to adequate housing recognized in article 11 of the Covenant.

22. The Committee notes that, despite a number of initiatives by the Government, effective access to education by children of school age is unsatisfactory in El Salvador. The Committee is particularly concerned at the fact that the objective of universal primary education has not yet been achieved. The high drop-out rate, high absenteeism, failure rates and the high rates of illiteracy as a result of exclusion from the education system are also of concern to the Committee. Although child labour is often necessary for the survival of the family, it is one of the factors hampering the implementation of articles 13 and 14 of the Covenant, and the Committee is disturbed by the apparent lack of action by the authorities to remedy the situation.

23. The Committee is concerned that it has received no information on any programmes introduced by the Government to guarantee the economic, social and cultural rights of ethnic minorities in El Salvador.

24. The Committee notes with concern the total lack of information on either legislation or practice in El Salvador concerning the implementation of cultural rights specified in article 15 of the Covenant.

25. The Committee notes that the technical cooperation project submitted by the Centre for Human Rights of the United Nations to the Government of El Salvador, which would enable the latter to receive the assistance necessary to implement the international human rights conventions to which El Salvador is a party and to develop greater familiarity with and respect for human rights among the members of its administration, has not yet been approved by the authorities.

E. Suggestions and recommendations

26. The Committee recommends that the Government address the problem of the inequitable distribution of wealth among the population in order to combat the poverty that characterizes the country.

27. The Committee recommends that every effort be made to ensure the prompt and full implementation of the 1992 Peace Agreements, including the provisions which relate to land redistribution and economic, social and cultural rights, respect for which is, in the Committee's opinion, a guarantee of social peace in El Salvador.

28. The Committee would like the next report submitted by El Salvador to contain specific information on the activities of the Office of the Procurator for the Defence of Human Rights and, in particular, on how much weight is carried by the recommendations it makes and on the action taken on complaints it files with regard to violations of economic, social and cultural rights.

29. The Committee urges that all necessary measures should be taken to eradicate discrimination against women in Salvadoran law and that programmes be set up to eliminate inequalities between men and women.

30. The Committee recommends that particular attention be paid to the problems of unemployment. It recommends that measures be taken to ensure that as few jobs as possible are sacrificed and that social protection and vocational rehabilitation programmes are guaranteed for persons who lose their jobs.

31. The Committee recommends that the State party make the necessary efforts to implement the Salvadoran legislation on minimum wages, safe and healthy working conditions, equal pay for equal work by men and women and arbitrary dismissals. To this end, the Committee stresses that sufficient resources must be allocated to labour inspection services to enable them to carry out the tasks entrusted to them.

32. The Committee recommends that El Salvador take the necessary measures to bring its legislation on trade-union freedom, collective bargaining and the right to strike into line with its international obligations.

33. The Committee recommends that the construction of low-income housing for the poorest sectors of Salvadoran society be intensified in urban and in rural areas and that a greater effort be made to provide sanitation and drinking water supplies for the entire population.

34. The Committee encourages the Government of El Salvador to pursue the reforms of the education system that it is carrying out, particularly in order to make primary education available to all and to reduce illiteracy. It is the Committee's opinion that measures should be taken by the authorities to enable working children to receive an adequate education.

35. The Committee would like the next report of the State party to contain information enabling it to evaluate the extent to which the members of indigenous communities enjoy all the economic, social and cultural rights provided for in the Covenant.

36. In view of the many gaps identified by the Committee in the written report and the additional information supplied by the Government and the delegation of El Salvador, the Committee reiterates its request to the Government to submit further information on articles 6 to 8 and 15 of the Covenant, as well as on any problems encountered in this regard. Such information should be provided to the Committee by 31 October 1996.

37. While welcoming the establishment of collaboration between the authorities and non-governmental organizations, the Committee notes that that collaboration is sporadic, and expresses the hope that it will become general, particularly with regard to drafting reports for the various international human rights treaty bodies, including this Committee, and publicizing the activities of the Procurator for the Defence of Human Rights.

38. The Committee expresses the hope that the State party will consider the possibility of ratifying the Additional Protocol the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador).

39. The Committee recommends that the proposal of the Centre for Human Rights concerning technical cooperation be given favourable consideration by the Salvadoran authorities and that such assistance be used to guarantee the enjoyment of economic, social and cultural rights by all.

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